



Sen. David S. Luechtefeld

Filed: 3/15/2013

09800SB2312sam001

LRB098 09518 JLS 43178 a

1 AMENDMENT TO SENATE BILL 2312

2 AMENDMENT NO. _____. Amend Senate Bill 2312 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Right to Privacy in the Workplace Act is
5 amended by changing Section 5 as follows:

6 (820 ILCS 55/5) (from Ch. 48, par. 2855)

7 Sec. 5. Discrimination for use of lawful products
8 prohibited.

9 (a) Except as otherwise specifically provided by law and
10 except as provided in subsections (b) and (c) of this Section,
11 it shall be unlawful for an employer to refuse to hire or to
12 discharge any individual, or otherwise disadvantage any
13 individual, with respect to compensation, terms, conditions or
14 privileges of employment because the individual uses lawful
15 products off the premises of the employer during nonworking
16 hours.

1 (b) (1) This Section does not apply to any employer that is
2 a non-profit organization that, as one of its primary purposes
3 or objectives, discourages the use of one or more lawful
4 products by the general public.

5 (2) This Section does not apply to any employer that, as
6 its business purpose or objective, provides medical or hospital
7 treatment to patients who have a cancerous condition, that
8 gives new employees blood tests for tobacco use, and that:

9 (A) refuses to hire any individual on or after the
10 effective date of this amendatory Act of the 98th General
11 Assembly because the individual uses a tobacco product; or

12 (B) discharges any individual who was hired on or after
13 the effective date of this amendatory Act of the 98th
14 General Assembly because the individual uses a tobacco
15 product or otherwise disadvantages any individual who was
16 hired on or after the effective date of this amendatory Act
17 of the 98th General Assembly with respect to compensation,
18 terms, conditions, or privileges of employment because the
19 individual uses a tobacco product.

20 An employer described in this paragraph (2) that takes any
21 of the adverse actions described in subparagraph (B) of this
22 paragraph (2) must give its employees the right to appeal those
23 adverse actions.

24 As used in this paragraph (2), "tobacco product" includes
25 cigarettes, pipes, cigars, chewing tobacco, snus, snuff, clove
26 cigarettes, electronic cigarettes, and similar products.

1 (3) This Section does not apply to the use of those lawful
2 products which impairs an employee's ability to perform the
3 employee's assigned duties.

4 (c) It is not a violation of this Section for an employer
5 to offer, impose or have in effect a health, disability or life
6 insurance policy that makes distinctions between employees for
7 the type of coverage or the price of coverage based upon the
8 employees' use of lawful products provided that:

9 (1) differential premium rates charged employees
10 reflect a differential cost to the employer; and

11 (2) employers provide employees with a statement
12 delineating the differential rates used by insurance
13 carriers.

14 (Source: P.A. 87-807.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."